

REMARKS**Pending Claims:**

Claims 13-16 and 23-28 are pending.

Rejections Under 35 U.S.C. 102(e):**Imran U.S. Patent No. 6,535,764**

Claims 13, 14 and 23-28 stand rejected under 35 U.S.C. 102(e) as being anticipated by Imran et al, U.S. 6,535,764. Applicants traverse this rejection with Declaration under 37 CFR 1.132 stating that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another."

Swoyer et al U.S. Patent No. 6,754,536

Claims 13, 14, and 23-27 stand rejected under 35 U.S.C. 102(e) as being anticipated by Swoyer et al, U.S. Patent No. 6,754,536. Examiner states,

"as to Claim 14, the beam 72 of Swoyer acts as an attachment device for the housing (to make electrode contact via the memory alloy)

Applicant would like thank Examiner for the courtesy of the interview on October 26, 2005 with Applicant and Applicant's attorney. During the interview it was agreed that Swoyer did not disclose a lead capable of allowing anchoring within the intestine and at the same time allow the housing to be in the stomach cavity. Accordingly, Applicant submits that claims 13,14 and 23-27 are distinguishable over Swoyer et al.

Claims 13, 14, 23 and 24.

Swoyer et al do not disclose a fixation device configured to be positioned within a portion of the

intestinal tract as claimed in claims 13, 14, 23 and 24. Swoyer et al further do not include at least one lead electrically coupled to the at least one electrode and configured to extend from the fixation device in the intestinal tract into the stomach and to be coupled to the electronics housing as claimed in claims 13, 14, 23 and 24.

Claims 25-28

Swoyer et al do not disclose a fixation device and electrode configured to be positioned within a portion of the intestinal tract as claimed in claims 25-28. Swoyer et al. further do not include an electronics housing configured to be positioned in the stomach and to be in electrical communication with the electrode in the intestinal tract as claimed in claims 25-28.

Long, U.S. Publication No. 2003/0125788

Claim 25 stands rejected under 35 U.S.C., 102(a) as being anticipated by U.S Publication No. 2003/0125788. During the above-mentioned interview with the Examiner, it was agreed that the amendment to claim 25 would distinguish it over Long.

Rejections under 35 U.S.C, 103(a)

Claims 15 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2003/0125788 to Long in view of U.S. Patent No. 6,591,137 to Fischell et al. Examiner states:

Fischell et al disclose the invention substantially as claimed but for the anchoring of electrodes inside the duodenum, specifically with an expandable member. Long teaches a GI tract stimulator that can be anchored along the GI tract at a desired location with an expandable stimulator, the benefits being the technique for insertion is less invasive and the

radial electrode contact provides better stimulation. As such it would have been obvious to have incorporated the stimulation mechanism of Long into the Fischell et al system in order to effect improved stimulation to the target GI region.

Column 5, lines 40-56 of Fischell state:

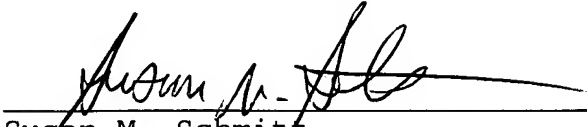
Electrode set 14 with electrodes 15G and 15H is located on the surface of the duodenum. The electrodes 15G and 15H are connected to the control module 20 by the leads 17G and 17H. Sutures 9 surgically placed during system implantation, hold the electrodes 15G and 15H against the surface of the stomach...The electrode set 14 is used with the present invention to provide electrical stimulation to encourage contraction of the duodenum to assist in emptying the stomach...The electrode set 14 can also be used to produce gastrointestinal hurry speeding the passage of food through the gastrointestinal tract to reduce nutrient uptake for obese patients.

In the above-noted interview with the Examiner, it was agreed that the rejection in view of Long and Fischell is an improper combination since using the Long anchor would cause a blockage in the Fischell system.

In conclusion, Applicant submits that claims 13-16 and 23-28 are patentably distinct over the prior art of record and are therefore in condition for allowance.

Respectfully submitted,

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